

1 BILL NO. S-84-10-37

2 SPECIAL ORDINANCE NO. S-139-84

3 AN ORDINANCE approving Contract
4 for Resolution #6011-84, Pontiac
5 Place, Phase III, between the
6 City of Fort Wayne and Gaines
Construction Company, Inc. in
connection with the Board of
Public Works and Safety.

7 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
8 THE CITY OF FORT WAYNE, INDIANA:

9 SECTION 1. The annexed Contract, made a part hereof,
10 between the City of Fort Wayne and Gaines Construction Company,
11 Inc., for Resolution #6011-84, Pontiac Place, Phase III, in connec-
12 tion with the Board of Public Works and Safety, is hereby ratified,
13 affirmed and approved in all respects. The work under said Con-
14 tract requires:

15 improvement of Eckart Street from
16 the west property line of Plaza Drive
17 to the east property line of Abbott
18 Street by the installation of new
19 pavement with curbs, drainage and
20 sidewalks. The sidewalks location
is to be the total length on the south
side and only between Plaza Drive and
Alexander Street on the north side.
This Area is also known as Pontiac
Place Phase III;

21 the Contract price is Seventy-Seven Thousand Two Hundred Ninety-
22 One and 25/100 Dollars (\$77,291.25).

23 SECTION 2. Prior Approval was received from Council
24 with respect to this Contract on September 11, 1984. Two (2)
25 copies of the Contract attached hereto are on file with the City
26 Clerk, and are available for public inspection.

27 SECTION 3. That this Ordinance shall be in full force
28 and effect from and after its passage and any and all necessary
29 approval by the Mayor.

30 APPROVED AS TO FORM
31 AND LEGALITY

32 Samuel L. Talarico
Councilmember

33 Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Talarico, seconded by Redd, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.

DATE: 10-23-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Jim Denton, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

| | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> | <u>TO-WIT:</u> |
|--------------------|-------------|-------------|------------------|---------------|----------------|
| <u>TOTAL VOTES</u> | <u>8</u> | _____ | _____ | <u>1</u> | _____ |
| <u>BRADBURY</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>BURNS</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>EISBART</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>GiaQUINTA</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>HENRY</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>REDD</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>SCHMIDT</u> | <u>✓</u> | _____ | _____ | _____ | _____ |
| <u>STIER</u> | _____ | _____ | _____ | <u>✓</u> | _____ |
| <u>TALARICO</u> | <u>✓</u> | _____ | _____ | _____ | _____ |

DATE: 11-13-84

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) ~~(APPROPRIATION)~~ (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 1-139-84 on the 13th day of November, 1984,

ATTEST:

(SEAL)

Sandra E. Kennedy

Ray A. E. Clark

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of November, 1984, at the hour of 11:30 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 15th day of November, 1984, at the hour of 3:00 o'clock P. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

14-12270
10/10/84

CONTRACT

This Agreement, made and entered into this 10th day of October, 1984

by and between ----- GAINES CONSTRUCTION COMPANY, INC. -----

----- 217 W. WASHINGTON CENTER ROAD, FORT WAYNE, INDIANA 46825 -----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to implement RESOLUTION NO. 6011-84

prove ECKART STREET from the west property line of Plaza Drive to the east property line of Abbott Street by the installation of new pavement with curbs, drainage and sidewalks. The sidewalks location is to be the total length on the south side, and only between Plaza Drive and Alexander Street on the north side. This Area is also known as PONTIAC PLACE PHASE III.

(TOTAL BID)

~~by grading and paving the roadway to a width of xxxxxxxxxxxxxxxx feet with xxx~~

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 6011-84 attached hereto and by reference made a part thereof ~~and at the following prices per lineal foot~~ at the following prices:

| | | |
|---|---|----------|
| Removal of Structures & Obstructions(Incl. Bulk Head) | Two thousand, three hundred dollars and no cents per lump sum | 2,300.00 |
| Common Excavation | Five dollars and fifty cents per cubic yard | 5.50 |
| 6" Concrete Pavement | Seventeen dollars and thirty cents per square yard | 17.30 |
| 4" Concrete Sidewalk | One dollar and fifty cents per square foot | 1.50 |
| 6" Wingwalk | One dollar and eighty cents per square foot | 1.80 |
| 6" Concrete Driveway | Seventeen dollars and no cents per square yard | 17.00 |
| 8" Concrete Alley Approach | Nineteen dollars and no cents per square yard | 19.00 |
| Concrete Curb Type II-A | One dollar and sixty cents per lineal foot | 1.60 |
| 7" Concrete, Pavement 2" Recess | Eighteen dollars and no cents per square yard | 18.00 |
| Asphalt Patching Over Sewer Trench | Eighteen dollars and no cents per square yard | 18.00 |
| Subsurface Drain Incl. Pipe Stone & Engineer Fabrics | Three dollars and fifty cents per lineal foot | 3.50 |

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 6011-84 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally completed on or before November 30, 1984 (Weather Permitting)

and in all respects completed on or before _____, 19____ and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date _____, 19____ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 10th day of October, 1984

ATTEST:

Donald Daines
Corporate Secretary

GAINES CONSTRUCTION CO., INC.

BY: Henry Gaines

ITS:

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

David Kiel
Robert Smith
James A. Connelley

ATTEST:

Walter D. Gochenow
Secretary and Clerk

Its Board of Public Works and Mayor.

| | | |
|---|---|-------------|
| 2" Conduit | One dollar and twenty-five cents per lineal foot | 1.25 |
| Adjust Casting to Grade | One hundred dollars and no cents per each | 100.00 |
| Seeding, Fert., Mulch & Fine Grading | No dollar and sixty-five cents per square yard | 0.65 |
| Pipe RCP 18" Class IV (Incl. Backfill) | Twenty-one dollars and no cents per lineal foot | 21.00 |
| Pipe RCP Class V (Incl. Backfill) | Seventeen dollars and no cents per lineal foot | 17.00 |
| Inlet Type I-C | Five hundred and fifty dollars and no cents per each | 550.00 |
| Inlet Type III-C | Six hundred and fifty dollars and no cents per each | 650.00 |
| Manhole Type I-C | One thousand dollars and no cents per each | 1,000.00 |
| CB Type I-A | One thousand, three hundred and fifty dollars and no cents per each | 1,350.00 |
| TOTAL BID | Seventy-Seven thousand, two hundred and ninety-one dollars and twenty- five cents | \$77,291.25 |

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act, (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.)

A copy of General Ordinance No. G-34-78 (as amended) concerning discrimination in employment under municipal contracts, is attached and incorporated herein by reference.

KNOW ALL MEN BY THESE PRESENTS, that we GAINES CONSTRUCTION CO., INC. as Principal, and the GUARD CASUALTY AND SURETY INSURANCE COMPANY -----, a corporation organized under the laws of the State of Indiana, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of SEVENTY-SEVEN THOUSAND, TWO HUNDRED AND NINETY-ONE DOLLARS AND TWENTY-FIVE CENTS ----- (\$ 77,291.25 -----), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the 10th day of October, 19 84, enter into a contract with the City of Fort Wayne to construct RESOLUTION NO. 6011-84

To Improve ECKART STREET from the west property line of Plaza Drive to the east property line of Abbott Street by the installation of new pavement with curbs, drainage and sidewalks. The sidewalks location is to be the total length on the south side, and only between Plaza Drive and Alexander Street on the north side. This Area is also known as PONTIAC PLACE PHASE III.

(TOTAL BID)

at a cost of \$ 77,291.25 ----- according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

GAINES CONSTRUCTION CO., INC.

(Contractor)

BY: Henry Gaines

ITS: Pres

ATTEST:

Donald Haines

(Title) Sec.

GUARD CASUALTY AND SURETY INSURANCE COMPANY
Surety

*BY: Lynn Smith
Authorized Agent
(Attorney-in-Fact) Lynn Smith

*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: that

----- GAINES CONSTRUCTION CO., INC. -----

(Name of Contractor)

----- 217 W. WASHINGTON CENTER ROAD, FORT WAYNE, INDIANA 46825 -----

(Address)

a -----, hereinafter called Principal,
(Corporation, Partnership or Individual)

and GUARD CASUALTY AND SURETY INSURANCE COMPANY -----

(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of SEVENTY-SEVEN THOUSAND, TWO HUNDRED AND NINETY-ONE DOLLARS AND TWENTY-FIVE CENTS -----
for the payment, whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 10th day of October, 19 84, for the construction of:

RESOLUTION NO. 6011-84

To improve ECKART STREET from the west property line of Plaza Drive to the east property line of Abbott Street by the installation of new pavement with curbs, drainage and sidewalks. The sidewalk location is to be the total length on the south side, and only between Plaza Drive and Alexander Street on the north side. This Area is also known as PONTIAC PLACE PHASE III.

(TOTAL BID)

at a cost of SEVENTY-SEVEN THOUSAND, TWO HUNDRED AND NINETY-ONE DOLLARS AND TWENTY-FIVE CENTS -----

(\$77,291.25 -----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in three counter-
(number)
parts, each one of which shall be deemed an original, this 1st day of
October, 19 84.

(SEAL)

ATTEST:

Henry Gaines
(Principal) Secretary

Eileen Fawcett
Witness as to Principal

1666 Spy Run Ave
(Address)

St. Wayne, Ind.

Carol Bentler
Witness as to Surety

1666 Spy Run Avenue
(Address)

Fort Wayne, IN 46805

GAINES CONSTRUCTION CO., INC.

Principal

BY Henry Gaines
Pres
(Title)

(Address)

GUARD CASUALTY AND SURETY INSURANCE COMPANY
Surety

BY Lynn Smith
Attorney-in-Fact
(Authorized Agent) Lynn Smith

1666 Spy Run Avenue

Fort Wayne, IN 46805
(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

IMPROVEMENT RESOLUTION

FOR STREET OR ALLEY

No. 6011-84

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA,
That it is deemed necessary to improve Eckart Street from the west property line of Plaza Drive
to the east property line of Abbott Street by the installation of new pavement with
curbs, drainage and sidewalk. The sidewalk location is to be the total length on
the south side, and only between Plaza Drive and Alexander Street on the north side.

THIS AREA IS ALSO KNOWN AS: PONTIAC PLACE PHASE III

all in accordance with the profile, detail-drawing and specifications on file in the office of the Department of
Public Works of said City; and such improvement is now ordered.

It is hereby found by said Board of Public Works that all benefits accruing hereunder
will be to the general public of the City of Fort Wayne and that no special benefits
will accrue to any property owner adjoining said improvement or otherwise assessable
under said improvement. The cost of said improvement shall be paid by Community
Development and Planning and City Utilities.

Adopted, this 8th day of August, 1984

ATTEST:

Helen V. Gochenaum
Secretary and Clerk

BOARD OF PUBLIC WORKS:

David J. Kunt

Robert R. Gindor

TO: CITY ATTORNEY

FROM: BOARD OF PUBLIC WORKS

APPROVED BY:

David J. Kiester

David J. Kiester, Chairman

DATE: October 18, 1984

SUBJECT: Contract for Res. 6011-84, Pontiac Place, Phase III, Gaines Const.

FILE # ASSIGNED BY RECORDS LIBRARIAN

68287

ACTION REQUESTED: Please prepare an ordinance to be introduced in City Council on: October 23, 1984

approving Contract for Res. 6011-84, Pontiac Place, Phase III,

Gaines Construction Company, Inc. Contractor

cc: CITY ATTORNEY
DEPARTMENT

BILL NO. S-84-10-37

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS REFERRED AN
ORDINANCE approving Contract for Resolution #6011-84, Pontiac Place,
Phase III, between the City of Fort Wayne and Gaines Construction
Company, Inc. in connection with the Board of Public Works and Safety

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

Samuel J. Talarico

CHARLES B. REDD, VICE CHAIRMAN

Charles B. Redd

JANET G. BRADBURY

Janet G. Bradbury

PAUL M. BURNS

THOMAS C. HENRY

Thomas C. Henry

CONCURRED IN 11-13-84
SANDRA E. KENNEDY, CITY CLERK

TITLE OF ORDINANCE Contract for Res. 6011-84, Pontiac Pl., Ph. III

DEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety

S-84-10-37

SYNOPSIS OF ORDINANCE The Contract for Res. #6011-84, is for improvement of Eckart Street from the west property line of Plaza Drive to the east property line of Abbott Street by the installation of new pavement with curbs, drainage and sidewalks. The sidewalks location is to be the total length on the south side and only between Plaza Drive and Alexander Street on the north side.. This Area is also known as Pontiac Place. Phase III. PRIOR APPROVAL 9/11/84

EFFECT OF PASSAGE Improvement of above location

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$77,291.25

ASSIGNED TO COMMITTEE _____